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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/980,604	03/28/2002	Miruka Ishii	09812.0439	5812
22852	7590	05/13/2008		
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413			EXAMINER TRAN, HAI	
			ART UNIT	PAPER NUMBER
			3694	
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			05/13/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/980,604

Applicant(s)

ISHII ET AL.

Examiner

HAI TRAN

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 March 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3.5-7.9-13, 15-19, 21-23, 26-30, 32, 33, 126 and 127 is/are pending in the application.
- 4a) Of the above claim(s) 2, 8, 14, 20, 24, 25, 31, 34-125 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3.5-7.9-13, 15-19, 21-23, 26-30, 32, 33, 126 and 127 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This is the **Final Action** in response to Amendments filed on March 27, 2008, for application, titled: "Investment System and Data Transmitting/Receiving Method".
2. Applicant has amended claims 1, 5, 19, and 21-23, and added new claims 126 and 127. Applicant had previously cancelled claims 2, 4, 8, 14, 20, 24, 25, 31, and 34-125.
3. Accordingly, claims 1, 3, 5-7, 9-13, 15-19, 21-23, 26-30, 32, 33, 126, and 127 are pending in this application and have been examined.

Priority

4. This application is a 371 of PCT/JP01/01692, filed March 5, 2001 and claims the benefit of foreign applications JAPAN P2000-081859, filed March 17, 2000; JAPAN P2000-115772, filed April 11, 2000; and JAPAN P2000-301398, filed September 29, 2000.

Claim Rejections - 35 USC § 112

5. Applicant has amended claims 1, 3, 9, 19, and 27. Hence, the rejection is withdrawn.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 19, 21-23, 26-30, and 127 are rejected under 35 U.S.C. 103(a) as being unpatentable over Akiyama et al. (U.S. Patent No. 6,144,745) ("Akiyama") in view of Massey, Jr. (U.S. Patent No. 6,792,411) ("Massey").

Examiner's Note: Examiner has cited particular columns and line numbers in the references as applied to the claims for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

8. **With respect to claim 19**, Akiyama teaches a data transmitting/receiving method comprising:

storing investment target data of an investment target in a server device (see Akiyama, col. 4, lines 20-61, figure 5/element 23);

transmitting by the server device, price data of an investment ticket of the investment target data and the investment target data to a terminal device (see Akiyama, col. 11, lines 19-41 of col.12, figures 18, 19);

receiving investment data for the investment target data from the terminal device (see Akiyama, col. 11, lines 19-41 of col.12, figures 18, 19); and

receiving data of a number of the investment tickets to be purchased from the terminal device in accordance with an operation by a user (see Akiyama, col. 11, lines 19-41 of col.12, figures 18, 19);

wherein the investment ticket is a financial instrument with monetary value, the monetary value depending on a performance of the investment ticket (see Massey, col. 1, lines 20-29, col. 2, lines 54-62).

Akiyama teaches a method and apparatus for transmitting and retaining data on recording medium, but does not expressly teach financial instrument with monetary value. However, Massey teaches a method for funding the production of a movie by allowing interested potential viewers of the movie to purchase a share of the production company's stock (investment ticket) prior to production of the movie. It would have been obvious to one of ordinary skill in the art to combine the teachings of Akiyama with the teachings of Massey to offer an improved system and method that allows managing data and purchasing of stocks as described in Akiyama (col. 13, lines 7-12).

9. **With respect to claim 21**, Akiyama teaches the data transmitting/receiving method as claimed in claim 19, further comprising:

accumulating the data of the number of investment tickets (see Akiyama, col. 4, lines 11-19); and

transmitting notification data comprising at least one of the price of the investment ticket, the total number of investment tickets, and the number of investors to another terminal device when the resultant total number of tickets exceeds a predetermined value (see Massey, col. 7, lines 1-14, figure 3). One of ordinary skill in the art would combined the teachings of Akiyama and Massey to offer an improved system and method that allows managing data and purchasing of stocks as described in Akiyama (col. 13, lines 7-12).

10. **With respect to claim 22**, Akiyama teaches the data transmitting/receiving method as claimed in claim 19, further comprising:

receiving the investment target data from another terminal device (see Akiyama, col. 11, lines 19-41 of col.12, figures 18, 19); and

accumulating the investment target data transmitted from the another terminal device into the server device (see Akiyama, col. 4, lines 11-19). One of ordinary skill in the art would combined the teachings of Akiyama and Massey to offer an improved system and method that allows managing data and purchasing of stocks as described in Akiyama (col. 13, lines 7-12).

11. **With respect to claim 23**, Akiyama teaches the data transmitting/receiving method as claimed in claim 19, further comprising:

transmitting the investment target data to the terminal device in response to a request signal from the terminal device (see Akiyama, col. 11, lines 19-41 of col.12, figures 18, 19);

counting a number of transmission times of the investment target data (see Akiyama, col. 5, lines 12-36, figure 6); and

accounting to a user who receives the investment target data when the number of transmission times exceeds a predetermined value (see Akiyama, col. 5, lines 12-36, figure 6);

wherein the server device no longer accepts the investment data when the number of transmission times of the investment target data exceeds the predetermined value (see Akiyama, col. 5, lines 12-36, figure 6).

12. **With respect to claims 26-30**, Akiyama teaches the data transmitting/receiving method as claimed in claim 19, further comprising setting a retaining rate transmitted from another terminal device as the retaining rate of an investment ticket issuer of the investment target data (see Akiyama, figures 1-6, 9-21 and description), determining the retaining rate in accordance with size of the issuer (see Massey, col. 2, lines 59-62 where it says "number of tickets sold"), with the achievement of the investment target data (see Massey, col. 2, lines 54-62 where it says "number of tickets sold is sufficient to the cost of making the movie"), with a popularity vote (see Massey, col. 6, lines 46-67, figure 3), and setting the retaining rate of an investment ticket issuer of the investment target data at 30% to 51% (see Massey, col. 7, lines 1-6 where it says "based on an extrapolation of the rate of sale of the stock").

13. Although Massey does not expressly teach the 30% to 51% retaining rate, it teaches the extrapolation technique which is a method to extrapolate a data from a curve. It may require a little tweaking to get the extrapolation to the right percentage, but Examiner believes that a combination of the Akiyama and Massey would disclose the claimed feature in the claims. Hence, it would have been obvious to one of ordinary skill in the art to combine the teachings of Akiyama with the teachings of Massey to offer an improved system and method that allows managing data and purchasing of stocks as described in Akiyama (col. 13, lines 7-12).

14. **With respect to claim 127**, Akiyama does not teach such feature. However, Massey teaches that the data transmitting/receiving method as claimed in claim 19, wherein the investment ticket provides rights for receiving a dividend, and wherein a

dividend value of the dividend depends on the performance of the investment target (see Massey, col. 4, lines 17-26). One of ordinary skill in the art would combined the teachings of Akiyama and Massey to offer an improved system and method that allows managing data and purchasing of stocks as described in Akiyama (col. 13, lines 7-12).

15. Claims 32-33 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Akiyama in view of Massey and further in view of Tagawa et al. (U.S. Patent No. 6,834,348) ("Tagawa").

16. **With respect to claims 32-33**, Akiyama and Massey do not teach such features. However, Tagawa teaches that the data transmitting/receiving method as claimed in claim 19, wherein when selling and buying of investment tickets of the investment target data is carried out between investors, the server device causes a transaction to be made at a floating price (see figure 5, col. 11, lines 52-62), and wherein when selling and buying of investment tickets of the investment target data is carried out between investors, the server device causes a transaction to be made in the order of lower prices in the selling order and in the order of higher prices in the purchasing order (see at least figures 3 and 5, col. 11, lines 31-62). It would have been obvious to one of ordinary skill in the art to combine the teachings of Akiyama with Massey and with Tagawa to offer an improved system and method that allows managing data and purchasing of stocks as described in Akiyama (col. 13, lines 7-12).

17. **With respect to claims 1, 3, 5-7, 9-13, 15-18, and 126**, these claims are similar to claims 19, 21-23, 26-30, 32, 33 and 127 and have similar limitations. Hence, they are rejected under the same rationale provided in claims 19, 21-23, 26-30, 32, 33 and 127.

Conclusion

18. Claims 1, 3, 5-7, 9-13, 15-19, 21-23, 26-30, 32, 33, 126, and 127 are rejected.

19. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

20. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HAI TRAN whose telephone number is (571)272-7364. The examiner can normally be reached on M-F, 9-4 PM.

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22. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James P. Trammell can be reached on (571) 272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

23. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/H. T./

Examiner, Art Unit 3694

/James P Trammell/

Supervisory Patent Examiner, Art Unit 3694